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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,171	12/04/2003	Robert F. Serman	serman 1	3602
40198	7590	11/14/2005		
BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC P.O. BOX 381146 BIRMINGHAM, AL 35238			EXAMINER MILLER, BENA B	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,171

Applicant(s)

SERMAN, ROBERT F.

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-16 and 18-26 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Bena B. Miller

DETAILED ACTION

Claim Objections

Claim 17 objected to because of the following informalities: It appears that claim 17 is advertently depended on claim 11. Claim 17 should depend from either claim 15 or 16. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the examiner is unsure if applicant is claiming the combination of assembly and the tree trunk or the subcombination of assembly, only. This in turn, is because while line 1 of the claim appears to indicate that applicant's intention is to claim only the assembly, other portions of the claim recite limitations which are dependent on the trunk (Note: line 8, **for example only**). In this Office Action, the examiner presumes that the applicant's intention is to prosecute the subcombination of the assembly, in order that the claims are given their broadest reasonable interpretation. Accordingly, all additional limitations that are dependent on the trunk are not considered further structurally limiting with respect to the claimed device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kehren.(US Patent #3,946,988).

The device of Kehren reads on the structural limitations of the claims including a base (15), a horizontal lip (16), mast (14a), a means (12), a snubbing ring (21), a lowering eyelet (29) and back eyelet (28).

Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Maloch (US Patent #5,735,323).

The device of Maloch reads on the structural limitations of the claims including a base (the surface attached or connected to the bottom portion of 14), a horizontal lip (119), mast (114,120), a means (126), a top eyelet (eyelet formed in element 132 and pulley block 144), a lowering eyelet (It should be noted that 114 inherently has an eyelet since 142 and 143 is connected to 114) and back eyelet (134). The Examiner takes the position that the surface area of the base can be considered a storage compartment.

Allowable Subject Matter

Claims 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12-16 and 18-26 are allowed.

Claims 12-14 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 15-26, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, claims 15-26 are now subject to being rejoined. Claims 15-26 hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office action mailed on 09/22/05 is hereby withdrawn.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
November 09, 2005